UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION DOCKET NO. 3:20-cv-00596

JOHNNY H. COBLE JR., and ROBIN COBLE both on behalf of their minor child "J.H.C.",)
Plaintiff,)
v.) ORDER
LAKE NORMAN CHARTER SCHOOL, et al.,)
Defendants.)

THIS MATTER is before the court on Plaintiffs' Objections to the Magistrate Judge's denial of their Motion to Amend the Complaint. (Doc. No. 30).

Faced with Defendants' Motion to Dismiss, Plaintiffs filed a Motion to Amend and did so in large part to address many of Defendants' arguments regarding dismissal. (Doc. No. 22). The Amended Complaint added a claim for nominal damages to address the mootness argument and added more information to address Defendants' arguments regarding the factual deficiencies in the Complaint. (Doc. No. 22-2). The Magistrate Judge denied the Motion to Amend, finding it futile because the case was moot and the Amended Complaint failed to state a claim. (Doc. No. 28). Plaintiffs filed timely Objections to that Order pursuant to the procedure established by Rule 72. (Doc. No. 30).

The Court did not rule on the Objections prior to issuing its Order granting the Motion to Dismiss. (Doc. No. 31). The Order granting the Motion to Dismiss does not itself rule on the Objections. Yet, in finding that the case is not moot, this Court's Order noted that Plaintiffs have a claim for nominal damages, which precludes any finding of mootness. (Doc. No. 31 at 6). The

original Complaint only sought injunctive relief and did not seek any damages (the Complaint was filed prior to the School beginning to teach the book, and simply sought to prevent it). The damages were only added in the Amended Complaint after the School completed the teaching and after the Defendants filed their Motion to Dismiss. (Doc. No. 22-2). Much of the remainder of the analysis in the dismissal Order, however, relied on the initial Complaint. (Doc. No. 31).

After considering Plaintiffs' Objections (Doc. No. 30), the Court affirms in part the Magistrate Judge's denial of the Motion to Amend. (Doc. No. 28). Specifically, the Court agrees that amendment would be futile because the Amended Complaint failed to state a claim. (See Doc. No. 28). However, the Court recognizes that the case is not moot on nominal damages grounds due to the Supreme Court's recent decision in <u>Uzueghunam et al. v. Preczewski</u>. In that case, the Supreme Court held that nominal damages are sufficient to satisfy the redressability prong of standing. <u>See Uzueghunam et al. v. Preczewski</u>, U.S. No. 19-968, (Decided March 8, 2021). Therefore, the Amended Complaint is not futile on the basis of mootness; however, the Amended Complaint remains futile because, as the Magistrate Judge decided, it clearly failed to state a claim upon which relief could be granted.

ORDER

IT IS, THEREFORE, ORDERED that Plaintiffs' Objections (Doc. No. 30) are

OVERRULED and the Court AFFIRMS in part the Magistrate Judge's denial of Plaintiffs'

Motion to Amend. (Doc. No. 28).

Signed: June 1, 2021

Max O. Cogburn Jr United States District Judge

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